

810-3-25-.05 Estates and Trusts Beneficiary Taxable Income, for Taxable Years Beginning Prior to January 1, 2005.

(1) (a) Each beneficiary of a trust or estate shall include in gross income the distributive share, whether distributed or not, of the net income of the trust or estate; except that portion of the estate or trust net, or taxable, income which was taxed as provided in Rule 810-3-25-.01. Income which would be exempt if received directly by the beneficiary shall be exempt if received through a fiduciary.

(b) Each nonresident beneficiary of an estate or trust shall include in Alabama gross income the distributive share, whether distributed or not, of the net income of the trust or estate which is attributable to Alabama sources; except that portion of such trust or estate income which was taxed as provided in Rule 810-3-25-.01.

(2) The amounts distributed to an individual from those trusts described in Rule 810-3-25-.06 subparagraphs (1)(a), (1)(b), (1)(c), and (1)(d) shall be taxable to the distributee in accordance with 26 U.S.C. § 72 in the year in which distributed as if it were an annuity the consideration for which is the amount contributed by the employee.

(a) The individual's cost basis, "the amount contributed by the employee", shall include:

1. Amounts contributed before January 1, 1982, by an individual and/or his spouse to an individual retirement account, bond, or annuity for which no deduction was allowed under § 40-18-15, Code of Alabama 1975.

2. Amounts contributed before January 1, 1982, by a taxpayer to a trust described in § 40-15-25(e) for which no deduction was allowed under § 40-18-15.

3. Amounts contributed before January 1, 1985 to an annuity plan qualifying under 26 U.S.C. §§ 401(k)(2) and 403(b), for which no deduction was allowed under § 40-18-15.

4. The amount included in prior years income by the individual or the trust due to failure to qualify for exempt status.

5. The amount included in the individual's gross income because of a prior distribution that failed to qualify for the "rollover provision" or was included in gross income pursuant to 26 U.S.C. § 408(m) (acquisition of works of art, etc., treated as a distribution).

(b) The cost of the annuity to the recipient is the amount contributed by him or her, and not previously deducted.

1. For annuities which started before January 1, 1985, annuity proceeds are first considered to be a recovery of contributions to the extent of such contributions before being included in gross income of the recipient.

2. For annuities which started after December 31, 1984, but before January 1, 1986, annuity proceeds will be included in gross income in the ratio of expected return in excess of contributions to total expected return; provided however, that recipients of an employee annuity as defined in 26 U.S.C. 72(d) (as in effect before January 1, 1986) will continue to recover all costs first as provided in subparagraph 1., above.

3. For annuities which started after December 31, 1985, annuity proceeds will be included in gross income in the ratio of expected return in excess of contributions to total expected return in the same manner as described in 26 U.S.C. § 72 (as in effect after December 31, 1985).

(c) 1. Lump sum distributions will be included in gross income in the year received. There is no provision in Alabama law for the forward averaging of such distributions.

2. No part of a distribution may be excluded from gross income as a capital gain.

(d) Alabama law, unlike the provisions of 26 U.S.C. § 72, does not impose an additional tax on certain early distributions from trusts described in § 40-18-25(e).

(3) Recipients of distributions from charitable remainder unitrusts and charitable remainder annuity trusts shall include in gross income the amounts specified in 26 U.S.C. §§ 664 (b) (1) and (2).

(4) Distributions from or rollovers to individual retirement accounts described in 26 U.S.C. §§ 408A and 530, shall be taxed to the distributee according to 26 U.S.C. §§ 408A and 530. See also Rule 810-3-25-.09, Reporting of Roth IRA Conversions for Part-Year Residents.

(5) Distributions from a trust that are not included in gross income of the individual for federal purposes due to the "rollover provisions" of 26 U.S.C. §§ 402, 403, 408, and 409 are excluded from Alabama gross income of the individual. These are:

(a) Qualified stock bonus, pension, or profit sharing plans as described in 26 U.S.C. §401(a), which are exempt under 26 U.S.C. § 501(a), and meet the rollover requirements of 26 U.S.C. § 402,

(b) Employee annuities which meet the requirements of 26 U.S.C. § 404(a)(2), and the rollover requirements of 26 U.S.C. § 403,

(c) Individual retirement accounts that qualify under and meet the "rollover provisions" of 26 U.S.C. § 408, and

(d) Retirement bonds that qualify under 26 U.S.C. §§ 409 or 219 and meet the "rollover provisions" of 26 U.S.C. § 409.

(6) If an employer makes a contribution to a nonexempt trust for an employee and the contribution is nonforfeitable to the employee, it shall be included in the gross income of the employee at the time of the contribution.

(7) If contributions in the preceding paragraph are not nonforfeitable when made but later become nonforfeitable, their fair market value shall be included in the gross income of the employee when they become nonforfeitable.

(8) The income from a revocable trust is taxable income to the grantor unless the trust is irrevocable as to the income, then the income is taxable to the trust or the beneficiary as directed in § 40-18-25.

(a) A loss on the final return of a revocable trust is allowed to pass on to the grantor unless the trust is irrevocable as to income, then the loss is allowed to pass on to the beneficiary.

(b) A loss on an irrevocable trust cannot be passed on to the grantor or the beneficiary.

(9) See also § 40-18-14 for inclusion of trust or estate distributions in gross income.

(10) For interpretation of federal statutes adopted by the Alabama legislature, see Rule 810-3-1.1-.01, Operating Rules.

(11) The Subchapter J and Business Trust Conformity Act, Act 2006-114, was passed by the Alabama Legislature effective for taxable years beginning after December 31, 2004 - please refer to the regulations promulgated to implement the new act.

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Authority: §§ 40-2A-7(a)(5) and 40-18-25, Code of Alabama 1975

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